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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Review of the Commission's
Regulations Governing Broadcast
Television Advertising

MM Docket No. 95-90

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To: The Commission

REPLY COMMENTS OF CHRIS-CRAFT INDUSTRIES, INC.

Chris-Craft Industries, Inc. ("CCI") hereby submits the following reply comments in this rulemaking proceeding.

CCI is the owner of the United Paramount Network ("UPN"), a new broadcast television network that is presently providing four hours of weekly prime time programming to approximately 145 primary and secondary affiliates in the United States. CCI is also the owner of eight broadcast television stations, six of which are affiliated with UPN.

In July of this year, a subsidiary of CCI established a new national sales representation firm -- United Television Sales ("UT Sales") -- to serve CCI's eight stations. CCI proposed in its initial Comments in this proceeding that, regardless of what, if any, modifications the Commission might make with respect to the applicability of the network sales representation rule to ABC, NBC, CBS and Fox, the rule be made inapplicable to new networks such as UPN so that UT Sales would be free to represent affiliates of UPN.

Several commenters in this proceeding have urged the Commission to retain the network advertising representation rule. See, e.g., Comments of Stations Representatives Association ("SRA Comments"); Comments of the Broadcasters

Coalition ("Coalition Comments"); Comments of Meredith Corporation ("Meredith Comments"). The general thrust of these comments is that, if the rule is repealed, the "networks" would coerce affiliates into using them as their national sales representatives; that the power of the "networks" to act coercively has been increased by recent changes and contemplated changes in the Commission's rule such as elimination of the prime time access and financial interest and syndication rules and increases in the multiple ownership caps; that localism would be destroyed; and that repeal of the rule would lead to the demise of independent sales representatives and elimination of competition in the sales representation business.

Significantly, however, none of these commenters attempts to distinguish between the applicability of these arguments to the four major networks on the one hand and to new networks such as UPN on the other. Indeed, several of the commenters support their arguments for retention of the rule by emphasizing the strength of the established networks vis-à-vis the new entrants. For example, Media Access Project ("MAP") argues that none of the alternative sources of advertising time suggested by the Commission are reasonably interchangeable "with the four major networks" (*MAP Comments at iii*) and that, "not even the two new broadcast networks, UPN and WB, are reasonably interchangeable substitutes. . ." *Id. at 12*. The Broadcasters Coalition states that WB and UPN "cannot now seriously be considered alternatives to the major networks." *Coalition Comments at 15*. Thus, when commenters such as the CBS Television Network Affiliates Association and the ABC Television Network Affiliates Association (*Joint Comments at 4*) refer to "the tremendous leverage [networks] have over affiliates," they are not talking about UPN.

The SRA similarly argues that "repeal of the network-rep rule would eviscerate the independent rep industry." SRA Comments at 15. In support of this

allegation, the SRA states that “networks have the most bargaining power vis-à-vis stations in large markets where there are many competing stations and still only four networks (counting Fox).” SRA Comments at 15. That comment further serves to emphasize the fact that those who are objecting to a repeal in the rule are basing their objections on the alleged power of the four established networks, not UPN, and that they provide no opposition to CCI’s proposal. CCI has taken no position on whether the rules’ applicability to the four established networks should be changed. Rather, CCI’s position is simply that the rule should not be applicable to new networks such as UPN. And none of the comments has presented any cogent reason why such a change should not be made.

The commenters supporting retention profess a concern that repeal of the rule would lead to the demise of independent representation firms and reduce competition among such firms. See, e.g., SRA Comments at 15. But such comments ignore the continuing consolidation that has been taking place among independent representation firms and overlook the fact that allowing a firm such as UT Sales to represent affiliates of UPN would increase competition among the representation firms for the business of UPN affiliates. CCI argued in its Comments (at 9) that substantial consolidation had taken place in this market since the adoption of the rule, at which time the Commission had noted that there were more than 25 independent sales representatives. And Pappas Stations Partnership noted in its Comments (at 5, n.8) that today there are really only six national sales representatives: Blair, Katz (SELTEL), TeleRep, Petry, MMT, and Adam Young. Yet no sooner had these comments been filed than the consolidation went even further. It is now reported that Petry is buying Blair and that Cox Communications, which already owns TeleRep (and its affiliated firm, HRP), is buying and will dissolve MMT. See Broadcasting and Cable Magazine, September

18, 1995, at 11. Given this consolidation, competition would be served rather than disadvantaged by eliminating any restriction on the ability of UT Sales to represent UPN affiliates.

The SRA itself states that “stations also benefit from thriving competition within the independent rep business ” SRA Comment at 9. CCI submits that allowing UT Sales to represent UPN affiliates would serve such competition. The SRA also states that “small and medium-sized television stations particularly benefit from the independent advice and expertise that they receive from rep firms.” SRA Comments at 9. But CCI has owned and operated one of the largest group of independent television stations for years. The experience it has gained in the development of independent and local programming can be of substantial value to UPN affiliates, at least as valuable as that of independent sales rep firms.

Other arguments made by these various commenters in opposition to repeal of the rule are similarly inapplicable to CCI and UPN. For example, several argue that the recent elimination of the prime time access rule and the financial interest and syndication rules has already strengthened the networks. See, e.g., Coalition Comments at 18-19. But none of these rules was applicable to new networks such as UPN; and the elimination of these rules has therefore not served to create any material leverage by UPN over its affiliates.

In short, the arguments which these commenters make in support of retention of the network sales representation rule are really addressed only to the potential harms that might result if ABC, NBC, CBS and Fox were free to represent their own affiliates. As stated in its Comments, CCI takes no position on whether or not the rule should be modified or repealed with respect to its applicability to these four established networks. And CCI therefore is not commenting on the

merits of the arguments of these commenters with respect to the established networks. Rather, CCI submits that the comments in support of retention of the rule actually serve to highlight the distinctions between UPN on the one hand and the four established networks on the other, and to reinforce the validity of CCI's proposal that the rule be made inapplicable to new networks such as UPN. Making the rule inapplicable to UPN will, as noted in CCI's Comments (at 8-9), increase competition among broadcast television networks, and, as noted in this Reply, increase competition among national sales representation firms, without any substantial harm to competition or diversity. CCI submits that such a change will therefore demonstrably serve the public interest.

Respectfully submitted,

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By


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